

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil No.
)	
GERALD A. POYNTER, II; JACLYN L.)	
POYNTER; JERICA NICOLE UNGER;)	
JERIMIA STEVEN UNGER; KENNETH)	
JOHN MALINOWSKI, as trustee of THE)	
ELIAKIM ASSOCIATION; KINGDOM)	
FINANCIAL LLC; THE STATE OF)	
MISSOURI,)	
)	
Defendants.)	

COMPLAINT

Plaintiff, the United States of America sets forth its complaint against the defendants as follows:

1. This is a civil action brought by the United States to enforce federal tax liens encumbering certain real property located in Jackson County, Missouri, and to have the proceeds from a court-ordered sale distributed to the parties in amounts determined by the Court.
2. This complaint has been authorized and requested by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and is commenced at the direction of a delegate of the Attorney General of the United States pursuant to 26 U.S.C. § 7401.
3. This Court has jurisdiction over this action based on 28 U.S.C. §§ 1331, 1340, and 1345 and 26 U.S.C. § 7403(a).
4. Venue is proper in this court under 28 U.S.C. § 1391(b) because the real property that is a subject of this action is located within this judicial district.

5. The plaintiff is the United States of America.

6. Gerald A. Poynter, II resides at USP Leavenworth, in Leavenworth, Kansas, and has an inmate Register No. 23510-045. He is subject to the jurisdiction of this Court because he is the taxpayer whose property is subject to the federal tax liens discussed below.

7. Jaclyn L. Poynter resides in Kansas City, Missouri, within this judicial district, and is the taxpayer whose property is subject to the federal tax liens discussed below.

8. Jerica Nicole Unger is the daughter of defendants Gerald A. Poynter, II and Jaclyn L. Poynter. Jerica Nicole Unger is named as a defendant, pursuant to 26 U.S.C. § 7403(b), because she may claim an interest in the real property at issue in this complaint.

9. Jerimia Steven Unger is named as a defendant, pursuant to 26 U.S.C. § 7403(b), because he may claim an interest in the real property at issue in this complaint.

10. Kenneth John Malinowski, as trustee of the Eliakim Association, is named as a defendant, pursuant to 26 U.S.C. § 7403(b), because he may claim an interest in the real property at issue in this complaint.

11. Kingdom Financial LLC is named as a defendant, pursuant to 26 U.S.C. § 7403(b), because it may claim an interest in the real property at issue in this complaint.

12. The State of Missouri is named as a defendant pursuant to 26 U.S.C. § 7403(b) because it may claim an interest in the real properties at issue in this complaint.

The Unpaid Tax Assessments of Gerald A. Poynter, II and Jaclyn L. Poynter

13. A delegate of the Secretary of the Treasury made assessments against Gerald A. Poynter, II and Jaclyn L. Poynter for unpaid federal income taxes, penalties, and interest on November 28, 2008, October 25, 2010, October 24, 2011 (for tax year 2004) and October 23,

2008, November 24, 2008, and December 8, 2008 (for tax year 2005). The total amount of the assessments was \$369,307.80.

14. Notices of the assessments referred to in paragraph 13 and demands for payment were given to Gerald A. Poynter, II and Jaclyn L. Poynter on or about the dates that the assessments were made. Despite the notices and demands for payment, Gerald A. Poynter, II and Jaclyn L. Poynter have failed or refused to pay the outstanding federal income taxes, penalties, and interest.

15. A delegate of the Secretary of the Treasury made assessments against Gerald A. Poynter, II, pursuant to 26 U.S.C. § 6700, for promoting an illegal 1099-OID scheme on September 29, 2014. A delegate of the Secretary of the Treasury made assessments against Gerald A. Poynter, II, pursuant to 26 U.S.C. § 6702, for making frivolous filings with the IRS on December 1, 2008 (for tax years 2004, 2005, 2006, 2007). The total amount of the assessments was \$47,017.22.

16. Notices of the assessments referred to in paragraph 15 and demands for payment were given to Gerald A. Poynter, II on or about the dates that the assessments were made. Despite the notices and demands for payment, Gerald A. Poynter, II has failed or refused to pay the outstanding penalty assessments.

17. On February 23, 2015, the United States initiated an action to reduce to judgment the unpaid assessments made against Gerald A. Poynter, II and Jaclyn L. Poynter, referred to in paragraphs 13 through 16. *See United States v. Gerald A. Poynter, II, et al.*, No. 4:15-cv-00131-BCW (W.D. Mo.).

18. On January 26, 2016, judgment was entered in favor of the United States and against Gerald A. Poynter, II regarding the unpaid unpaid federal income taxes, penalties, and

interest, referred to in paragraphs 13 through 14, in the amount of \$27,150.87, plus interest on that amount accruing after December 31, 2015. *See United States v. Gerald A. Poynter, II, et al.*, No. 4:15-cv-00131-BCW (W.D. Mo.), ECF No. 38, 01/26/2016.

19. On January 26, 2016, judgment was entered in favor of the United States and against Jaclyn L. Poynter regarding the unpaid federal income taxes, penalties, and interest, referred to in paragraphs 13 through 14, in the amount of \$27,150.87, plus interest on that amount accruing after December 31, 2015. *See United States v. Gerald A. Poynter, II, et al.*, No. 4:15-cv-00131-BCW (W.D. Mo.), ECF No. 38, 01/26/2016.

20. On September 16, 2015, judgment was entered in favor of the United States and against Gerald A. Poynter, II regarding the unpaid assessments against Gerald A. Poynter, II, pursuant to 26 U.S.C. § 6700, for promoting an illegal 1099-OID scheme, referred to in paragraphs 15 through 16, in the amount of \$2,027.67, plus interest on that amount accruing after February 16, 2015. *See United States v. Gerald A. Poynter, II, et al.*, No. 4:15-cv-00131-BCW (W.D. Mo.), ECF No. 26, 09/16/2015.

21. On December 16, 2015, judgment was entered in favor of the United States and against Gerald A. Poynter, II regarding the unpaid assessments against Gerald A. Poynter, II, pursuant to 26 U.S.C. § 6702, for making frivolous filings with the IRS, referred to in paragraphs 15 through 16, in the amount of \$55,842.26, plus interest accruing after February 16, 2015. *See United States v. Gerald A. Poynter, II, et al.*, No. 4:15-cv-00131-BCW (W.D. Mo.), ECF No. 32, 12/16/2015.

CLAIM FOR RELIEF – ENFORCE FEDERAL TAX LIENS
AGAINST REAL PROPERTY

22. The United States incorporates by reference the allegations in paragraphs 1 through 21.

The Subject Property

23. The United States seeks to enforce federal tax liens that arose by virtue of the assessments referred to above and that encumber the real property located at 10000 East 43rd Street, Kansas City, Missouri, 64133 (“subject property”).

24. The subject property is legally described as follows:

West 166 feet 6 inches Lot 7, DUNN WOODS, a subdivision in Kansas City, County of Jackson, State of Missouri. PARCEL No. 32-130-08-08-00-0-00-000

The United States’ Interest in the Subject Property

25. By virtue of the assessments referred to above, notices and demands for payment, and the failure of Gerald A. Poynter, II and Jaclyn L. Poynter to pay, federal tax liens arose on the assessment dates described in paragraphs 13 through 16 under 26 U.S.C. §§ 6321 and 6322, and attached to all property and rights to property then belonging to and/or later acquired by Gerald A. Poynter, II and Jaclyn L. Poynter, including the subject property described in paragraphs 23 through 24.

26. The IRS filed notices of federal tax liens with the Jackson County (Missouri) Recorder regarding Gerald A. Poynter, II’s outstanding federal income tax and penalty liabilities referred to in paragraphs 13 through 16 above on the following dates: February 24, 2009 (for tax years 2004, 2005, 2006, 2007), April 25, 2011 (for tax years 2004, 2005, 2006, 2007), December 1, 2014 (for tax years 2008, 2009), February 21, 2017 (for tax year 2007), May 1, 2018 (for tax years 2004, 2005, 2006, 2007) (refiled notices).

27. The IRS filed notices of federal tax liens with the Jackson County (Missouri) Recorder regarding the outstanding federal income tax liabilities of Gerald A. Poynter, II and Jaclyn L. Poynter referred to in paragraphs 13 through 14 above on the following dates: April 25,

2011 (for tax years 2004, 2005), August 28, 2017 (for tax year 2007), May 1, 2018 (for tax years 2004, 2005) (refiled notices).

28. Previously, on May 20, 2008, Dennis L. Henry and Janet S. Henry conveyed the subject property to Gerald A. Poynter, II by quit claim deed. The quit claim deed was recorded with the Jackson County (Missouri) Recorder on June 17, 2008. A copy of the quit claim deed is attached to this complaint as Exhibit 1.

29. On January 21, 2009, at a time when defendants Gerald A. Poynter, II and Jaclyn L. Poynter were indebted to the United States for the federal income tax and penalty liabilities referred to in paragraphs 13 through 16 above, and subject to the federal tax liens referred to in paragraph 25 above, defendants Gerald A. Poynter, II and Jaclyn L. Poynter executed a quit claim deed that conveyed legal title to the subject property to their daughter, defendant Jerica Nicole Unger. Jerica Nicole Unger did not pay adequate and full consideration for the subject property.

30. On August 5, 2009, the quit claim deed referred to in paragraph 29 was recorded with the Jackson County (Missouri) Recorder.

31. By quit claim deed recorded with the Jackson County (Missouri) Recorder on March 17, 2010, and subject to the federal tax liens referred to in paragraph 25 above, Jerica Nicole Unger and Jerimia Steven Unger conveyed legal title to the subject property to Eliakim Association. Eliakim Association did not pay adequate and full consideration for the subject property.

32. By quit claim deed recorded with the Jackson County (Missouri) Recorder on June 9, 2011, and subject to the federal tax liens referred to in paragraph 25 above, Eliakim

Association conveyed legal title to the subject property to Kingdom Financial LLC. Kingdom Financial LLC did not pay adequate and full consideration for the subject property.

33. By reason of the foregoing, the United States is entitled to enforce its federal tax liens against the subject property described in paragraphs 23 through 24 to satisfy or partially satisfy the federal tax liabilities of Gerald A. Poynter, II and Jaclyn L. Poynter.

WHEREFORE, the United States seeks judgment on its complaint against defendants as follows:

- (a) A determination that the federal tax liens identified in paragraph 25 are valid and subsisting liens that attached to all property and rights to property of Gerald A. Poynter, II and Jaclyn L. Poynter, including the subject property described in paragraphs 23 through 24;
- (b) An order that any defendant claiming an interest in the subject property described in paragraphs 23 through 24, superior to the federal tax liens described above affirmatively demonstrate that interest;
- (c) An order that the federal tax liens be enforced, that the subject property described in paragraphs 23 through 24 be sold in a judicial sale, according to law, free and clear of any right, title, lien, claim or interest of any of the above-named defendants, and that the proceeds of the sale be distributed to such parties in such amounts as this Court determines;
- (d) That the Court award the United States its costs incurred herein;
- (e) Grant the United States such other relief that the Court deems just and equitable.

Dated: March 27, 2019

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General

/s/ Richard G. Rose

RICHARD G. ROSE

District of Columbia Bar No. 493454

Trial Attorney

Tax Division

U.S. Department of Justice

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Attorneys for the United States of America

RECORDER'S CERTIFICATION
JACKSON COUNTY, MISSOURI

06/17/2008 10:42:17 AM

INSTRUMENT TYPE: QCD FEE: \$24.00 2 Pages



INSTRUMENT NUMBER/BOOK & PAGE:

2008E0065646



ROBERT T. KELLY, DIRECTOR, RECORDER OF DEEDS

QUIT CLAIM DEED

THIS INDENTURE, made on May 20th, 2008, by and between Dennis L. Henry, and spouse, Janet S. Henry, of 10000 East 43rd Street, Kansas City, Missouri 64133, (collectively the "Grantor"), and Gerald Allen Poynter, II, married, of 5013 Pebble Ave., Kansas City, Missouri 64133, (the "Grantee").

WITNESSETH, that the Grantor, in consideration of the sum of \$10.00 and other good and valuable consideration paid by the Grantee (the receipt of which is hereby acknowledged) does by these presents **REMISE, RELEASE and FOREVER QUIT CLAIM** unto the Grantee, the following described lots, tracts or parcels of land, lying, being and situate in the County of Jackson, State of Missouri:

West 166 feet 6 inches Lot **7**, DUNN WOODS, a subdivision in Kansas City, County of Jackson, State of Missouri. **PARCEL No. 32-130-08-08-00-0-00-000**

TO HAVE AND TO HOLD THE SAME, with all the rights, immunities, privileges and appurtenances thereto belonging, unto the Grantee and unto the Grantee's heirs and assigns forever; so that neither the Grantor nor the Grantor's heirs nor any other person or persons, for the Grantor or in the Grantor's name or behalf, will hereinafter claim or demand any right or title to the aforesaid premises or any part thereof, but they and each of them will, by these presents, be excluded and forever barred.

IN WITNESS WHEREOF the Grantor has hereunto signed and sealed this quit claim deed the day and year first above written.

Signed, Sealed and Delivered

In the Presence of:

Sign: Ronald D. Ross
Name: RONALD D. ROSS

Sign: Linda Poynter
Name: Linda Poynter

Dennis L. Henry
Dennis L. Henry

Janet S. Henry
Janet S. Henry

SPOUSAL RIGHTS

Exhibit

1

I, Janet S. Henry of Jackson, County, spouse of Dennis L. Henry, in consideration of the above sum and other good and valuable consideration received, do hereby waive and release to Grantee all rights of dower, curtesy, homestead, community property, and all other right, title and interest, if any, in and to the above property.

Spouse's Signature: Janet S. Henry

Grantor Acknowledgement

In the State of Missouri, County of Platte, on this 20 day of May, 2008, before me, Jason Hanson, a Notary Public in and for the State of Missouri, personally appeared Dennis L. Henry, and spouse, Janet S. Henry, of 10000 East 43rd Street, Kansas City, Missouri 64133, known to me to be the persons described in and who executed the foregoing instrument, and acknowledged execution of this instrument as a free act and deed.

Witness my hand and Notarial Seal, affixed in said County and State, the day and year in this certificate above written.

Jason M. Hanson
Notary Public for the State of Missouri

County of Platte

My commission expires: 6-20-2011

JASON M. HANSON
Notary Public - Notary Seal
State of Missouri
Commissioned for PLATTE County
My Commission Expires: Jun. 20, 2011
COMMISSION #07421962

JS 44 (Rev 09/10)

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI****CIVIL COVER SHEET**

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Western District of Missouri.

The completed cover sheet must be saved as a pdf document and filed as an attachment to the Complaint or Notice of Removal.

Plaintiff(s):**First Listed Plaintiff:**

UNITED STATES OF AMERICA ;

County of Residence: Outside This District**Defendant(s):****First Listed Defendant:**

GERALD A. POYNTER II;

County of Residence: Outside This District**Additional Defendants(s):**

JACLYN L. POYNTER ;

JERICA NICOLE UNGER ;

JERIMIA STEVEN UNGER ;

as trustee of THE ELIAKIM ASSOCIATION KENNETH JOHN

MALINOWSKI ;

KINGDOM FINANCIAL LLC ;

THE STATE OF MISSOURI ;

County Where Claim For Relief Arose: Jackson County**Plaintiff's Attorney(s):**

Trial Attorney Richard Gerald Rose (UNITED STATES OF AMERICA)

U.S. Department of Justice

P.O. Box 7238

Washington, DC 20044

Phone: 2026162032**Fax:** 2025146770**Email:** richard.g.rose@usdoj.gov**Defendant's Attorney(s):****Basis of Jurisdiction:** 1. U.S. Government Plaintiff**Citizenship of Principal Parties (Diversity Cases Only)****Plaintiff:** N/A**Defendant:** N/A**Origin:** 1. Original Proceeding**Nature of Suit:** 870 Tax Suits (U.S. a party)**Cause of Action:** 26 U.S.C. Sec 7403

Requested in Complaint

Class Action: Not filed as a Class Action

Monetary Demand (in Thousands):

Jury Demand: No

Related Cases: Is NOT a refiling of a previously dismissed action

Signature: s/ Richard G. Rose

Date: 03/27/2019

If any of this information is incorrect, please close this window and go back to the Civil Cover Sheet Input form to make the correction and generate the updated JS44. Once corrected, print this form, sign and date it, and submit it with your new civil action.